

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

LUIS ALEJANDRO GARZA,
Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant.

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Civil Action No. B-02-154

**DEFENDANT'S REPORT
TO THE COURT PURSUANT TO OCTOBER 20, 2006,
ORAL ORDER**

TO THE HONORABLE JUDGE OF SAID COURT:

On October 20, 2006, this Honorable Court directed the Defendant to: (1) confirm what time period the videotapes in its possession--and at issue in Plaintiff's motions to compel--cover with regard to the date of the incident; (2) determine whether any video was retained from the FCI, Three Rivers for the forty-five to sixty minute time frame immediately preceding the incident at issue; and, (3) the current location of the inmate witnesses identified by the Court in its October 10, 2006, as witnesses with relevant knowledge subject to production by the government.

1. As indicated by the undersigned, the Defendant has turned over to the Plaintiff three video tapes it obtained from the FBI. Tape One contains video obtained from all cameras located at the FCI, Three Rivers facility. This video jumps from one camera view to another very quickly and is difficult to follow without having a professional isolate a particular camera view. The time periods reflected on this video are as follows:

Date: February 6, 2001

Time Periods (Military Time):

20:13:35 to 21:45:28

15:34:44 to 20:09:32

Tape Two contains an isolated video-which was prepared by the FBI in preparation for the criminal prosecution against the participants in the assault- from cameras seven and eight. Tape 3, which indicates it is an "8 mm" tape, depicts a video/photo line-up of several

inmates that were in the recreation yard at the time the incident occurred.

2. Immediately following the October 20, 2006, hearing the undersigned contacted Bureau of Prisons officials and was advised that the tapes at the facility are maintained on a continuous twenty-four hour loop, meaning that if they are not "pulled" or otherwise secured, the tape is erased and used again. Any tape that was pulled or secured would have been turned over to the FBI and not retained by the Bureau of Prisons. Consequently, the only videotape images pertaining to the incident at issue that exist are that which are described at paragraph one herein. *See, Attached Declaration of Elida Anzaldua.*

3. USMS officials advise that the current locations of the inmate witnesses at issue are as follows:

Luis A. Garza – Karnes City Jail, Karnes City, Texas

Anibal Cabrera-Piris – FCI, Allenwood, White Deer, Pennsylvania

Jose Luis Guzman-Posas – Released on September 1, 2006; deported to Mexico

George E. Hayes – FCI, Texarkana, Texarkana, Texas

Robert Hammons – FCI, Beaumont, Beaumont, Texas

John Gomez -- FCI, Texarkana, Texarkana, Texas

Alfonso Martinez – FCI, Beaumont, Beaumont, Texas

Should the Court require clarification or further information, the Defendant will endeavor to produce it promptly.

Respectfully submitted,

DONALD J. DeGABRIELLE, JR.
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the true and foregoing "Defendant's Report to the Court Pursuant to It's October 20, 2006, Order" was mailed on this the 20th day of October, 2006 via Certified Mail, Return Receipt Requested to Barry R. Benton, Attorney at Law, 284 Ebony Avenue, Brownsville, TX 78520, and forwarded to Barry Benton electronically at Barry57@sbcglobal.net.

/s/Nancy L. Masso
NANCY L. MASSO
Assistant United States Attorney